

REMARKS/ARGUMENTS

In the specification, the paragraphs [0021], [0025], [0030], [0033], [0035], [0037], [0040], [0041], [0042], [0043], [0044], [0047], [0052], [0055], [0056], [0057], [0058], [0063], [0064], [0065], [0066], [0067], [0068], and [0069] have been amended to correct typographical errors.

Claims 1-45 are pending in the application. Applicant, by this paper, amends claims 1, 4-5, 10, 12-17, 20-21, and 26-40. No new matter is added by amendment.

In particular, claims 1, 10, 17, 26, 32, and 38 are amended to clarify that the asset comprises equipment, which is a tangible physical asset. Support for the amendment may be found throughout Applicant's Specification, for example, at paragraphs [0004] and [0019]. Throughout this correspondence, the paragraphs cited from Applicant's Specification refer to the paragraphs of U.S. Patent Application Publication No. 2005/0181738.

Claims 4-5, 12-16, 20-21, 27-31, 33-37, and 39-40 were amended to replace the term "appetency" with the term --apparency-- in order to conform the language of the claims to the language of the text and the term used in the figures. Support for the amendments can be found throughout Applicant's Specification, for example, in the title, at Figs. 4-5 and paragraphs [007]-[0012].

Applicant respectfully requests reconsideration and allowance of all pending claims.

Discussion of Rejections Under 35 U.S.C. §102

Claims 1, 5, 10, 13, 17, 21, 26, 28-29, 32, 34-35, 38, and 40 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent application Publication No. 2005/0283613 to Carpentier et al. (hereinafter Carpentier).

In order for a claim to be anticipated, a single prior art reference must describe, either expressly or inherently, each and every element as set forth in the claim. Carpentier fails to describe every claimed feature in the manner set forth in the claim.

Carpentier is directed to making content addressable data on a network accessible. Carpentier, Abstract. In particular, "digital information storing devices monitor broadcast data requests and in return broadcast requested data over the network. *Id.*, at paragraph [0003].

In stark contrast, Applicant's claimed invention is directed to locating and making apparent *physical* assets. As described in Applicant's Specification, "Assets may include, for example, earth moving equipment, tractor trailers, construction equipment, railroad train cars

and engines, cargo containers, and rental equipment of all shapes and sizes. Asset management is particularly important in instances where assets are moved in the typical course of business or in cases where assets themselves are mobile. For example, in the equipment rental industry, equipment is usually rented to individuals or companies for use away from a rental equipment yard.” *Application*, at paragraph [0004]. As will be discussed in further detail below, Carpentier’s description of network data is not relevant to the tracking and making apparent of a physical asset that comprises equipment.

Claim 1 recites “[a]n apparatus for making an asset apparent to an individual.” The apparatus includes “a receiver for receiving a request from a wireless communication system for having *the asset comprising equipment* make itself apparent.” (*emphasis added*). The apparatus also includes: “an interface for providing the command to *a device on the asset*.” (*emphasis added*).

Claim 1 relates to making apparent an asset that comprises equipment. Carpentier fails to describe any asset that comprises equipment, and is not suitable for making an asset that is physical, such as equipment, apparent.

Furthermore, because Carpentier is directed to facilitating access to content addressable data over a network, and thus fails to even remotely support the capability of having “a device on the asset.” The digital data assets described in Carpentier are incapable of having a “device on the asset.”

Thus, Carpentier fails to anticipate claim 1, because Carpentier fails to describe every claimed feature in the manner set forth in claim 1.

Claim 10 includes a similar feature of “wherein the asset comprises equipment.” Claim 10 further includes the feature of “a transmitter for transmitting the request to the asset.” Carpentier also fails to describe this claimed feature because Carpentier fails to describe any transmitter that is capable of transmitting a signal to the digital data assets described in Carpentier. Indeed, it is not even clear how a transmitter may even transmit a request to digital data. Thus, claim 10 is believed to be allowable over, and not anticipated by Carpentier for at least the reasons discussed above in relation to claims 1 as well as for failing to describe any transmitter that transmits a request to the asset.

Claims 17 and 38 include features similar to those discussed above in relation to claim 1 and is believed to be allowable at least for the reasons presented above in relation to claim 1.

Claims 26 and 32 include features similar to those discussed above in relation to claim 10 and is believed to be allowable at least for the reasons presented above in relation to claim 10.

Applicant respectfully requests reconsideration and allowance of claims 1, 10, 17, 26, 32, and 38.

Claims 5, 13, 21, 28-29, 34-35, and 40 depend, either directly or indirectly, from one of independent claims 1, 10, 17, 26, 32, or 38 and are believed to be allowable at least for the reason that they depend from an allowable base claim. Applicant respectfully requests reconsideration and allowance of claims 5, 13, 21, 28-29, 34-35, and 40.

Discussion of Rejections Under 35 U.S.C. §103

Claims 2-4, 6-9, 11-12, 14-16, 18-20, 22-25, 27-28, 30-31, 33-34, 36-37, 39, and 41-45 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Carpentier in view of U.S. Patent No. 5,917,433 to Keillor et al. (hereinafter Keillor).

Applicant contends that Keillor fails to cure the deficiencies of Carpentier, with respect to the independent claim.

Claims 2-4, 6-9, 11-12, 14-16, 18-20, 22-25, 27-28, 30-31, 33-34, 36-37, 39, and 41-45 are all believed to be allowable at least for the reason that they depend from an allowable base claim. Each of the dependent claims may have individual bases for patentability beyond those discussed above in relation to the independent claims. It is not necessary to discuss the patentable distinctions of each dependent claim because of the allowability of the base claims from which they depend. However, Applicant provides some illustrative examples.

Claims 2-3, 9, 15, 18-19, 25, 30, and 45 all include features that relate to physical characteristics. Furthermore, because Carpentier is directed to digital data assets, attempting to combine aspects from Keillor relating to physical characteristics is improper, because such a combination is inoperable in the invention of Carpentier, and a combination cannot render an invention inoperable or unsuitable for its intended purpose.

Claims 2 and 18 include the feature that the device that is on the asset comprise illumination circuitry. Claims 3 and 19 include the feature that the device that is on the asset comprise audio control circuitry. As discussed above in relation to claim 1, it is not possible for a device to be placed on a digital data asset, as described in Carpentier. Furthermore,

there is no rationale nor is there any enabling disclosure for placing a physical circuitry onto digital data assets. Indeed, such a combination is inoperable.

Similarly, claims 15 and 30 include the feature of determining a location of a wireless device for determining an apperency action. However, the Examiner provides no discussion as to how such a wireless device location has any bearing on a network location of digital device assets described in Carpentier, or how Carpentier would be modified to utilize the location of such a wireless device.

Claims 25 and 45 include determining a physical location of the asset. In particular, claim 25 includes a position sensor for the determining a location of the asset. The Examiner does not include any discussion of how the digital data assets described in Carpentier could even be modified to utilize a position sensor, or how use of a position sensor can in any way assist in making apparent digital data assets stored in a network.

The discussion of dependent claims provided above is for example only, and not intended to be an exhaustive discussion of patentable features. The discussion is provided, in part, to highlight the inoperability or otherwise unsuitability of the combinations of Carpentier with Keillor, which renders the combination of the references improper.

CONCLUSION

Applicant believes that all claims pending in the application are allowable. Applicant therefore respectfully requests that a timely Notice of Allowance be issued in this case.

Applicant petitions the Director of the United States Patent Office to extend the time for reply to the Office Action dated March 20, 2008 for one month and authorizes the charge as set forth in §1.17(a) to Deposit Account No. 17-0026. Applicant believes that the instant response is filed within the period for response provided in the Office Action of March 20, 2008 extended by one month as provided for under 37 CFR 1.136.

If there are any other fees due in connection with the filing of the response, please charge the fees to our Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and

the fee should also be charged to our Deposit Account..

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned.

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Respectfully submitted,

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